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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/272,845	03/19/1999	DOUGLAS L ROLLINS	MICE-0017-US	6156

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EXAMINER
KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 12/12/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No. 09/272,845	●	Applicant(s) ROLLINS, DOUGLAS L
	Examiner Chuck O Kendall		Art Unit 2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *19 March 1999* .

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) _____ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-40* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1. This action is in response to the application filed 03/19/99

Claims 1-40 have been examined.

2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims *1-6,8-22,24-40* are rejected under 35 U.S.C. 102(a) as being anticipated by Apfel

et al . US-PAT-NO: 5974454 hereinafter Apfel.

CLAIM 1,&17.

Apfel clearly anticipates, updating a software module, by identifying a first version of the

software module, identifying a second version of the software module, and comparing/determining

which of the first version and the second version of the software module is most current; and

[Abstract, also see fig 4a]

indicating that version of the software module determined to be most current. [see fig 4a, part

427]

CLAIMS 2,&18.

The method of claim 1, further comprising obtaining that version of the software module determined to be the most current version. [see fig 4a, part # 427]

CLAIMS 3&19.

The method of claim 2, further comprising loading the obtained version of the software module.[see fig 4b, part # 454, and *abstract*]

CLAIMS 4,&20.

The method of claim 1, wherein the act of identifying a first version of the software module comprises communicating with a physical device associated with the software module.[abstract see database server, *also 2: 30-35*]

CLAIMS 5,&21.

The method of claim 4, wherein the act of communicating comprises determining an identifier value of the physical device.[8: 55-65,for identifier id as interpreted see versions of modules as cited and also refer to table on 9:1-5, for value "Ver =8.0"]

CLAIMS 6,&22.

The method of claim 5, further comprising determining a subsystem identifier value of the physical device.

[8: 55-65,for subsystem see version of HTML converter in word processor program module and version of word processor module]

CLAIMS 8,&24.

The method of claim 1, wherein the act of identifying a second version of the software module comprises communicating with an update information source.

[abstract, see transmit query via the internet to database server].

CLAIMS 9,&25.

The method of claim 8, wherein the act of communicating further comprises:

identifying the software module to the update information source;[abstract].

receiving, from the update information source, an indication of the second version of the software module. [abstract].

CLAIMS 10,&26

The method of claim 8, wherein the act of communicating comprises communicating by a modem.[fig 1,part #54.also see 5:13]

CLAIM 11,&27

The method of claim 8, wherein the act of communicating comprises communicating by a computer network.[5:5-10]

CLAIMS 12,&28.

The method of claim 8, wherein the act of communicating comprises communicating with a database server device.[abstract].

CLAIMS 13&29

The method of claim 1, wherein the act of determining comprises comparing at least one characteristic of the first identified first version of the software module with the same characteristic of the second identified first version of the software module.[abstract for characteristic ,see date].

CLAIMS 14&30

The method of claim 1, wherein the act of indicating comprises visually displaying an indication of the software module determined to be the most current version to a user.[see 10:23-28].

CLAIMS 15, & 31

The method of claim 2, wherein the act of obtaining comprises retrieving that version of the software module determined to be the most current version from an update source.[see abstract].

CLAIMS 16, &32

The method of claim 15, wherein the act of retrieving comprises retrieving from an update source that is physically distinct from the location of the first identified version of the software module.[abstract, see server]

CLAIM 33

Apfel anticipates, a computer executed method to update a software module, comprising:

identifying a software module;[abstract , identifying is inherent,see updating, software prgrogram module, would have to Identify module to update it.]

automatically obtaining version information of the software module from a local source;[abstract see, registry key one computer].

automatically obtaining version information of the software module from a non-local source; [abstract].

comparing the version information from the local source with the version information from the non-local source; and[abstract,see determining current date between computer and database server].

automatically retrieving an update module for the software module if the version information from the non-local source is newer than the version information from the local source.[abstract]

CLAIM 34.

The method of claim 33, wherein the act of retrieving further comprises updating the software module with the retrieved update module.[abstract, also see fig 4a part # 451].

CLAIM 35.

The method of claim 33, further comprising automatically updating the software module with a local update module obtained from a local media source if the version information from the local source is newer than the version information from the non-local source. [abstract].

CLAIM 36.

The method of claim 33, wherein the act of obtaining version information from a local source comprises, obtaining version information from a registry file.[abstract].

CLAIM 37.

The method of claim 33, wherein the act of obtaining version information from a local source comprises, obtaining version information from a local floppy disk.[see fig1,part # 29,and also see,4:25-30,with respect to abstract]

CLAIM 38.

The method of claim 33, wherein the act of obtaining version information from a non-local source comprises, obtaining version information from a website. [abstract, see internet, also fig2 part #75a]

CLAIM 38.

The method of claim 33, wherein the act of obtaining version information

from a non-local source comprises, obtaining version information from a world wide web site. [abstract, see internet, also fig2 part #75a]

CLAIM 40.

The method of claim 33, wherein the act of obtaining version information from a non-local source comprises, obtaining version information from dial-in server.[dial-in server is interpreted as a modem, fig 1,part #54.also see 5:13]

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 7,23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Apfel et al .US-PAT-NO: 5974454 hereinafter Apfel as applied in claim 4 in view of admitted prior art.

CLAIM 7,23.

Apfel discloses all the claimed limitations as applied in claim 4. Apfel doesn't explicitly
disclose determining a basic input-output system version identifier value of the physical device.
[page 1 line 10-18].However, applicants disclosure admits that determining a basic input-output
system version identifier value of the physical device is old and well known.[page 1.lines 10-18].
Therefore,it would have been obvious to one of ordinary skill in the art at the time the invention
was made to combine Apfel and admission, to properly obtain updates for a computer module.

Correspondence Information

Any inquires concerning this communication or earlier communications from
the examiner should be directed to Chuck O. Kendall who may be reached via
telephone at (703) 308-6608. The examiner can normally be reached Monday
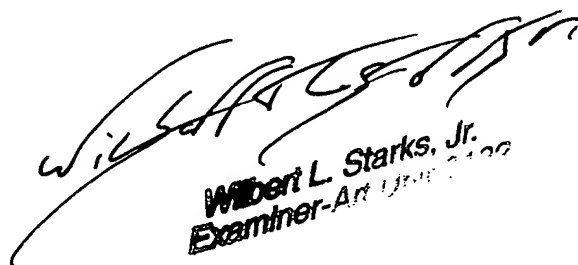through Friday between 8:00 A.M. and 5:00 P.M. est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, *Kevin Teska* may be reached at *(703) 305-9704.*

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the Group receptionist whose telephone number is
(703) 305-3900.

For facsimile (fax) send to 703-7467239 official and 703-7467240 draft

Chuck O. Kendall

Software Engineer Patent Examiner
United States Department of Commerce